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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,119	01/10/2006	John Stuart Goulding	1026-0001	8890

50811 7590 12/18/2006  
O'SHEA, GETZ & KOSAKOWSKI, P.C.  
1500 MAIN ST.  
SUITE 912  
SPRINGFIELD, MA 01115

EXAMINER
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VANTERPOOL, LESTER L

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/564,119	Applicant(s) GOULDING ET AL.	
	Examiner Lester L. Vanterpool	Art Unit 3782	

**– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on September 25, 2006.
- 2a) ☐ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>July 10, 2006</u> | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 2 & 4 – 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable the “tensioning means” recited in claims 1 & 4. The specification does not clearly define or identify the “tensioning means” with a reference character number.

For example, Specification page 5, lines 21 – 22 recite: Each strap 19 is secured to the corresponding flexible rod 13, 14 by means of a retainer (20).

Specification page 6, lines 3 – 5 recites: “The adjustment buckles (22) hold the straps (19) in the bowed, i.e. tensioned, position, retaining the flexible rods 13, 14 in the position shown in hatch lines (14a, in Figure 9).

Based on the vague description within the specification and Figures 1 – 11, it is unclear exactly what the “tensioning means” is and where the “tensioning means” is located.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2 & 4 – 6 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1 & 4 recites the limitation "tensioning means" in claims 1 & 4. There is insufficient antecedent basis for this limitation in the specification.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. To the best degree of the examiner understanding, claims 1 – 2 & 4 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (U.S. Patent Number 5890640) in view of Gleason (U.S. Patent Number 6179188 B1). Thompson discloses the pack (10), which includes the sac (12) (See Figure 1), an internal frame (24) for the sac (12) (See Figure 1), the shoulder harness (10 & 18) and the hip belt (52

& 54) (See Figure 1); wherein the frame (24) includes the pair of spaced flexible rods (26 & 28) positioned one on each side of the frame (24) so as to extend down at least the lower part (44 & 46) of the length of each side of the sac (12) (See Figures 1 & 2);

and tensioning means (56 & 58) and the adjacent portion of the hip belt (52 & 54) (See Figures 1 & 2); each the tensioning means (56 & 58) are adapted to move the corresponding flexible rod (26 & 28) so as to bow the tension the rod and provide the relatively rigid weight transmitting connection between the rod and the corresponding portion of the hip belt (52 & 54); the arrangement are such that the movement of the flexible rods (26 & 28) tends to lift the frame (24) and the pack (10), decreasing the loading on the shoulder harness (10 & 18) and increasing the loading on the belt (52 & 54) (column 6, lines 51 – 54). See Figures 1 & 2.

However, Thompson does not disclose the tensioning means secured between each flexible rod at or adjacent the lower end of the flexible rod, and adjacent to the hip belt.

Gleason teaches the tensioning means (60) secured between each flexible rod (50 & 52) at or adjacent the lower end of the flexible rod (50 & 52), and adjacent to the hip belt (32) (See Figures 1 – 3) for the purpose of providing easy accessibility to the user hands.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tensioning means secured between each flexible rod at or adjacent the lower end of the flexible rod, and adjacent to the hip belt as taught by Gleason with the pack of Thompson in order to enhance user reach accessibility.

Regarding claim 2, Thompson further discloses the frame (24) is the skeleton frame made of rod (34, 64A & 64B) or bars (column 4, lines 47 – 60). See Figure 2.

To the best degree of the examiner understanding, Regarding claim 4, Thompson discloses the invention substantially as claimed.

However, Thompson does not disclose each tensioning means comprises the strap secured at or adjacent the end of the corresponding flexible rod, the other end of the strap extending through the adjustment buckle.

Gleason teaches each tensioning means (60) comprises the strap (56) (See Figures 1 - 3) secured at or adjacent the end of the corresponding flexible rod (50 & 52), the other end of the strap (56) extending through the adjustment buckle (60) (See Figures 1 – 3) for the purpose of providing adequate anchoring and security.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the each tensioning means comprises the strap secured at or adjacent the end of the corresponding flexible rod, the other end of the strap extending through the adjustment buckle as taught by Gleason with the pack of Thompson in order to enhance durable anchoring and reliable security.

Regarding claim 5, Thompson discloses the end of each flexible rod (26 & 28) lies within the wing (See Figures 1 – 3) formed upon the lower side portion of the sac (10) (See Figure 1).

Regarding claim 6, Thompson discloses the end of each flexible rod (26 & 28) lies within the hip belt (52 & 54) (See Figure 2).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (U.S. Patent Number 5890640) in view of Gleason (U.S. Patent Number 6179188 B1) as applied to claim 2 above, and further in view of Parsons (European Patent Number 0518485 B1).

Thompson discloses the invention substantially as claimed. Thompson discloses the frame (24) and flexible rods (26 & 28).

However, does not disclose the frame consist of the pair of spaced U-shaped portions inclined at the acute angle to each other and secured together, and spaced apart, by one or more crossbars, the inner legs of the U-shaped portions are secured together by the looped portion, and the outer leg of each U-shaped portion are secured to one of the flexible rods.

Parsons teaches the frame (See Figure 3) consist of the pair of spaced U-shaped portions (26) (See Figure 3) inclined at the angle to each other and secured together, and spaced apart (See Figure 3), by one or more crossbars (23) (See Figure 3), the inner legs of the U-shaped portions are secured together by the looped portion (23) (See Figure 3), and the outer leg of each U-shaped portion are secured to one of the flexible rods (16) (See Figure 3) for the purpose of providing durability.

It would have been obvious to one having ordinary skills at the time the invention was made to make the frame consist of the pair of spaced U-shaped portions inclined at

the acute angle to each other and secured together, and spaced apart, by one or more crossbars, the inner legs of the U-shaped portions are secured together by the looped portion, and the outer leg of each U-shaped portion are secured to one of the flexible rods as taught by Parsons with the pack of Thompson in order to enhance reliability and durability.

### ***Conclusion***

9. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.



10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lester L. Vanterpool whose telephone number is 571-272-8028. The examiner can normally be reached on Monday - Friday (8:30 - 5:00) EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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NATHAN J. NEWHOUSE  
SUPERVISOR/PATENT EXAMINER